

HOUSE BILL No. 1461

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-29-10.

Synopsis: Collective bargaining for school employees. Creates a meet and confer provision for noncertificated school employees.

Effective: July 1, 2009.

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January 13, 2009, read first time and referred to Committee on Labor and Employment.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1461

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 20-29-10 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]:
4 **Chapter 10. Meet and Confer for Noncertificated Employees**
5 **Sec. 1. This chapter applies after December 31, 2009.**
6 **Sec. 2. As used in this chapter, "employee" means a**
7 **noncertificated employee (as defined in IC 20-29-2-11).**
8 **Sec. 3. As used in this chapter, "employee organization" means**
9 **an organization:**
10 (1) **that includes employees as members; and**
11 (2) **whose primary purpose is to represent the members of the**
12 **organization on issues concerning grievances, wages, rates of**
13 **pay, hours of employment, conditions of employment, or**
14 **becoming an exclusive recognized representative.**
15 **Sec. 4. As used in this chapter, "exclusive recognized**
16 **representative" means an employee organization elected under**
17 **section 8 of this chapter.**



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Sec. 5. As used in this chapter, "strike" means a:

- (1) work stoppage by two (2) or more employees to enforce compliance with demands made on a school employer; or
- (2) temporary stoppage of work activities by two (2) or more employees in protest against an act or condition.

Sec. 6. (a) This chapter does not apply to a school employer that has adopted by:

- (1) resolution;
- (2) amendment; or
- (3) rule;

provisions and procedures that permit an employee to form, join, or assist an employee organization to bargain collectively.

(b) For:

- (1) a collective bargaining agreement; or
- (2) a memorandum of understanding;

entered into between a school employer and an employee organization or a recognized representative before January 1, 2010, this chapter may not be construed to annul, modify, or limit the agreement or memorandum during the term of the agreement or memorandum.

Sec. 7. (a) All employees have the right to:

- (1) meet and freely assemble to discuss their interests as employees on the employees' own time;
- (2) form an employee organization on the employees' own time; and
- (3) join and assist an employee organization.

(b) The rights guaranteed under subsection (a) include the right to:

- (1) solicit membership;
- (2) join an employee organization to present the view of the employee; and
- (3) have dues deducted from employee wages and submitted to the exclusive recognized representative.

(c) An employee may not be required to:

- (1) become a member of; or
- (2) pay dues to;

an employee organization.

Sec. 8. (a) An employee organization is the exclusive recognized representative of the employees of an employer if:

- (1) before January 1, 2010, the employee organization was recognized by the employer as the sole representative of the employer's employees; or

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(2) after December 31, 2009, the employee organization is elected to be the exclusive recognized representative under subsection (c).

(b) After December 31, 2009, a school employer shall conduct an election to determine an exclusive recognized representative if at least thirty percent (30%) of the employees of the school employer sign a petition requesting such an election. The election shall be conducted at least thirty (30) but not more than sixty (60) days after the school employer receives the petition.

(c) An employee organization becomes the exclusive recognized representative of the employees of the school employer if it receives more than fifty percent (50%) of the votes cast in an election conducted under subsection (b).

(d) An election under subsection (b) to determine an exclusive recognized representative may not be conducted more often than once every two (2) years.

Sec. 9. This chapter is not intended to circumscribe or modify the existing right of a school employer to:

- (1) direct the work of the employer's employees;
- (2) hire, promote, demote, transfer, assign, and retain employees in positions;
- (3) suspend, discharge, or otherwise discipline employees for just cause;
- (4) relieve employees from duties because of lack of work or for other legitimate reasons; or
- (5) take actions that may be necessary to carry out the mission of the school employer in emergencies.

Sec. 10. A school employer may not do the following:

- (1) Interfere with, restrain, or coerce employees in the exercise of the rights guaranteed under this chapter.
- (2) Dominate, interfere with, or assist in the formation or administration of an employee organization, or contribute financial or other support to an employee organization. However, a school employer may permit employees to meet and confer and represent employee interests during working hours without loss of time or pay.
- (3) Discriminate in regard to hiring or conditions of employment to encourage or discourage membership in an employee organization.
- (4) Discharge or otherwise discriminate against an employee because the employee has filed a complaint, an affidavit, or a petition or has given information or testified under this

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chapter.

(5) Refuse to meet and confer in good faith with an exclusive recognized representative.

Sec. 11. (a) An exclusive recognized representative of the employees of a school employer that elects to meet and confer with a school employer must notify the school employer in writing that the exclusive recognized representative intends to exercise its rights under this chapter.

(b) Except as provided by section 12 of this chapter, a school employer who has received a written notice under subsection (a) shall meet and confer in good faith at reasonable times, including meeting in advance of the budget making process, to discuss issues and proposals regarding wages, hours of employment, and other conditions and terms of employment with the exclusive recognized representative. A school employer and the exclusive recognized representative may enter into an agreement on the issues on which the employer and representative met and conferred under this section.

Sec. 12. (a) A school employer is not required to meet and confer with an exclusive recognized representative under this chapter unless the exclusive recognized representative has notified the school employer in writing that the exclusive recognized representative elects to exercise its rights under this chapter.

(b) Notwithstanding subsection (a), a school employer may elect to meet and confer and enter into an agreement under section 11 of this chapter even if the school employer did not receive a written notice from an exclusive recognized representative.

(c) Notwithstanding any other provision of this chapter, a school employer may elect to terminate its duty to meet and confer with an exclusive recognized representative under this chapter if:

- (1) after meeting and conferring with the exclusive recognized representative under section 11 of this chapter, the school employer and the exclusive recognized representative are unable to reach a written agreement under this chapter; and
- (2) at least fifty percent (50%) of the members of the governing body of the school employer vote to terminate the school employer's duty to meet and confer with the exclusive recognized representative under this chapter and written notice of the action of the governing body is given to the exclusive recognized representative.

(d) An exclusive recognized representative that receives a termination notice from a school employer under subsection (c)(2)

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1 must wait at least one (1) year after the date the exclusive
 2 recognized representative receives the notice to notify the school
 3 employer of the exclusive recognized representative's election
 4 under subsection (a) to exercise its rights under this chapter.

5 Sec. 13. (a) As used in this section, "deficit financing" means
 6 making expenditures that exceed the money legally available to an
 7 school employer in any budget year.

8 (b) A school employer may not enter into an agreement under
 9 section 11 of this chapter that will place the school employer in a
 10 position of deficit financing. An agreement is voidable to the extent
 11 that an school employer must engage in deficit financing to comply
 12 with the agreement.

13 Sec. 14. (a) An employee, an employee organization, or an
 14 exclusive recognized representative may not participate in or
 15 encourage participation in a strike against an school employer.

16 (b) An employee engaging in a strike is subject to discharge by
 17 the school employer.

18 (c) An exclusive recognized representative that engages in or
 19 sanctions a strike loses the right to represent the employees for at
 20 least ten (10) years after the date of the action.

21 (d) A school employer may not pay an employee for days the
 22 employee is engaged in a strike.

23 Sec. 15. The term of any written agreement entered into under
 24 section 11 of this chapter may not exceed forty-eight (48) months.

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